

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**EILEEN POLIZZI, FUND MANAGER
of the TEAMSTERS LOCAL 404
HEALTH SERVICES AND INSURANCE PLAN,
Plaintiff,**

V.

Civil Action No. 05-30183-MAP

N&B EXPRESS, INC. and JAMES CAPELLI
Defendants,

and


**BANK OF WESTERN MASSACHUSETTS,
Trustee.**

REQUEST FOR ENTRY OF DEFAULT

To: Tony Anastas, Clerk of the United States District Court for the District of
Massachusetts

Please enter the default of the Defendant, James Capelli, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure for its failure to plead or otherwise defend as appears from the attached affidavit.

Respectfully submitted,
For the Plaintiff,
Eileen Polizzi, Fund Manager
Of The Teamsters Local 404 Health
Services And Insurance Plan,
By her attorney,

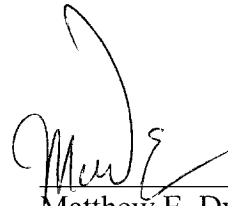

Matthew E. Dwyer (BBO# 139840)
Kathleen A. Pennini (BBO # 654573)
Dwyer, Duddy and Facklam, P.C.
One Center Plaza, Suite 360
Boston, MA 02108-1804
(617) 723-9777

Date: November⁴, 2005

CERTIFICATE OF SERVICE

I, Matthew E. Dwyer, hereby certify that I sent a copy of the foregoing document with attachments, via first-class mail on the 4th of November 2005, to:

James Capelli
29 January Hills Road
Shutesbury, MA 01072


Matthew E. Dwyer

Dated: November 4th, 2005

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

EILEEN POLIZZI, FUND MANAGER)	
of the TEAMSTERS LOCAL 404)	
HEALTH SERVICES AND INSURANCE PLAN,)	
Plaintiff,)	
)	
v.)	Civil Action No. 05-30183-MAP
)	
N&B EXPRESS, INC. and JAMES CAPELLI)	
Defendants,)	
)	
and)	
)	
BANK OF WESTERN MASSACHUSETTS,)	
Trustee.)	

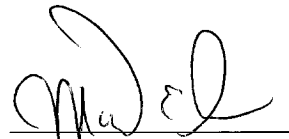
AFFIDAVIT OF MATTHEW E. DWYER

Matthew E. Dwyer, being duly sworn, deposes and states:

1. I am the Attorney for Eileen Polizzi, as she is Fund Manager of the Teamsters Local 404 Health Services and Insurance Plan (hereinafter, "Plaintiff"), and have personal knowledge of the facts set forth in this affidavit.
2. On August 5, 2005, Plaintiff filed a Complaint against Defendant, James Capelli (hereinafter, "Defendant" or "Capelli").
3. As indicated by proof of service previously filed with this Court, Defendant was served, in hand, with a Summons and a copy of the Complaint in this matter on September 1, 2005.
4. More than 20 days have elapsed since the day on which the Defendant was served with the Summons and a copy of the Complaint.
5. Defendant has failed to plead or otherwise defend as to Plaintiff's Complaint or serve a copy of any answer or other defense which he may have had upon Matthew E. Dwyer or Kathleen A. Pennini, attorneys of record for Plaintiff.

6. This affidavit is executed by the affiant in accordance with Rule 55(a) of the Federal Rules of Civil Procedure for the purpose of enabling Plaintiff to obtain an Entry of Default against Defendant for its failure to answer or otherwise defend as to Plaintiff's complaint.

Singed under the pains and penalties of perjury this 4th day of November 2005.


Matthew E. Dwyer